



Federal Communications Commission
Washington, D.C. 20554

May 27, 2009

DA 09-1151

Small Entity Compliance Guide

Improving Public Safety Communications in the 800 MHz Band

New 800 MHz Band Plan for U.S. – Canada Border Regions

WT Docket No. 02-55
DA 08-1094
Released May 9, 2008

This Guide is prepared in accordance with the requirements of Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996. It is intended to help small entities—small businesses, small organizations (non-profits), and small governmental jurisdictions—comply with the new rules adopted in the above-referenced FCC rulemaking docket. This Guide is not intended to replace the rules, which provide the final authority in this context. Although we have attempted to cover all parts of the rules that might be especially important to small entities, the coverage may not be exhaustive. This guide might not apply in a particular situation based upon the circumstances, and the FCC retains the discretion to adopt approaches on a case-by-case basis that may differ from this Guide. Any decisions regarding a particular small entity will be based on the statute and regulations. Interested parties are free to file comments regarding this Guide and its application to a particular situation; the FCC will consider whether the recommendations or interpretations in the Guide are appropriate in that situation. The FCC may revise this Guide without public notice to clarify or update the contents. Direct your comments and recommendations, or calls for further assistance, to the FCC's Consumer Center:

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Background.

On May 9, 2008, the Public Safety and Homeland Security Bureau (PSHSB) of the Federal Communications Commission (Commission) released a *Second Report and Order* in WT Docket 02-55. In this docket the Commission seeks to eliminate an ongoing problem of interference to public safety and other land mobile communication systems operating in the 800 MHz band by separating—to the extent possible—public safety and other non-cellular licensees from licensees that employ cellular technology in the 800 MHz band.¹

In the initial *Report and Order* in this docket, the Commission deferred consideration of post-rebanding band plans for the border areas, noting that implementing the band plan in areas of the United States bordering Mexico and Canada will require modifications to international agreements for use of the 800 MHz band in the border areas. Furthermore, the Commission noted that the details of the border plans will be determined in our ongoing discussions with the Mexican and Canadian governments.

In July 2007, the U.S. and Canadian governments reached an agreement on a process that enables the U.S. to proceed with rebanding in the regions along the U.S.-Canada border. After that agreement, the Bureau released the *Second Report and Order*, which set out the a new band plan for the U.S. – Canada border region.

Compliance Requirements.

The *Second Report and Order* imposes no new reporting, recordkeeping or other compliance requirements beyond those already established in the original *Report and Order*, which are codified at Section 90.677 of the Commission’s rules.

Under the *Second Report and Order*, certain licensees who operate 800 MHz systems in the U.S. – Canada border region (“affected licensees”) will be required to retune or “reconfigure” their stations to comply with this new band plan within a 30-month transition period. Reconfiguration will be paid for by Sprint Nextel and licensees are guaranteed “comparable facilities” at the end of rebanding as detailed in the original *Report and Order* in WT Docket 02-55.

Affected licensees are subject to a 12-month planning and negotiation process. During this 12-month period, they will be assigned a replacement frequency by the Transition Administrator, a third party entity which is overseeing the reconfiguration of the 800 MHz band. The TA’s duties are set out at Section 90.676 of the Commission’s rules. Upon receipt of a replacement frequency, affected licensees have 60 days to submit a Request for Planning Funding (RFPF) to Sprint, after which the parties will have 30 days to negotiate a Planning Funding Agreement (PFA), a contract which allows Sprint to reimburse a licensee for planning costs.

¹ 47 C.F.R. § 90.677.

Upon approval by the Transition Administrator of the PFA (or an equivalent starting date designated by the TA for licensees without a PFA), the licensee must complete planning and submit an estimate of the approximate cost to reconfigure its system to Sprint within 90 to 110 days, depending on the number of units in the licensee's system.

Following completion of planning and submission of a cost estimate to Sprint by the licensee, parties shall have 30 days to negotiate the Frequency Relocation Agreement (FRA), the contract which governs the actual reconfiguration of the licensee's system as well as the payment of costs associated with the reconfiguration.

Once an FRA is approved by the Transition Administrator, licensees will have between 22 to 23 months to complete the reconfiguration of their system in order to comply with the 30-month transition timetable established in the *Second Report and Order*.

Internet Link and Citations.

A copy of the *Second Report and Order* is available at
http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-08-1094A1.doc

Second Report and Order, DA 08-1094, 23 FCC Rcd 7605 (2008), 73 Fed. Reg. 33728 (June 13, 2008).